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DATE March 2, 2004
NAME Examiner Maryam Monshipouri
Group Art Unit 1652
COMPANY United States Patent and Trademark Office
FAX NUMBER 703-872-9306

FROM Tina W. McKeon, Ph.D.
REFERENCE NO. 06027.0002U2
OUR FAX NUMBER 678-420-9301
NUMBER OF PAGES 3 (including cover)

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ATTORNEY DOCKET NO. 06027.0002U2
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of)

Brash et al.)

Serial No.: 09/884,260)

Filed: June 19, 2001)

For: "Muskmelon (Cucumis Melo) Hydroperoxide)
Lyase and Uses Thereof")

Group Art Unit: 1652

Confirmation No. 3583

Examiner: Monshipouri, Maryam

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ELECTION UNDER RESTRICTION/ELECTION REQUIREMENT

VIA FACSIMILE

703-872-9306

Attn: Examiner Maryam Monshipouri

Group Art Unit 1652

U.S. Patent and Trademark Office

Alexandria, VA 22313-1450

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March 2, 2004

Sir or Madam:

In response to the restriction/election requirement of February 9, 2004, applicants provisionally elect, with traverse, the claims of Group IV (claims 20-21).

Although applicants provisionally elect Group IV with traverse, applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden results if all the claims are examined together. M.P.E.P. § 803 provides that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions and (2)

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Application Serial No. 09/884,260

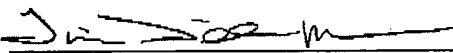
the search and examination of the entire application cannot be made without serious burden. See M.P.E.P. § 803. The Examiner has not shown that the second requirement has been met.

Specifically, the Examiner has failed to show that an examination of Group III and IV together would be a serious burden. This is particularly true as Groups III and IV are directed to method claims in the same class and these groups of claims can readily be searched together. Because little or no additional burden would be required to search and examine these two groups together, applicants respectfully submit that the Office should search and examine the groups together. Indeed it would be most efficient for the Patent Office to keep them together. Consequently, reconsideration and withdrawal of the restriction is requested.

For the above reasons, reconsideration or withdrawal of the restriction requirement and a favorable consideration of the claims are requested.

No fee is believed to be due for this response. If this is incorrect; however, the Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 14-0629.

Respectfully submitted,




Tina Williams McKeon
Registration No. 43,791

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I hereby certify that this correspondence and anything indicated as included is being transmitted via Facsimile No. 703-872-9306 addressed to:
Attn: Examiner Maryam Monshipouri, Group Art Unit 1652, U.S. Patent and Trademark Office, on the date shown below.


Tina Williams McKeon

March 2, 2004
Date